

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

NCS MULTISTAGE INC. §

Plaintiff, §

vs. §

NINE ENERGY SERVICE, INC. §

Defendant. §

CIVIL ACTION NO. 6:20-cv-00277-ADA

**JOINT SCHEDULING ORDER**

<b>Default Deadline</b>	<b>Parties' Proposed Deadline</b>	<b>Item</b>
July 10, 2020	July 10, 2020	Plaintiff serves preliminary <sup>1</sup> infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the earliest priority date (i.e. the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.
July 31, 2020	July 31, 2020	Deadline for Motions to Transfer
Sept. 4, 2020	Sept. 11, 2020	Defendant serves preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s), and (3)

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<sup>1</sup> The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of the court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and the amendment is based on material identified after those preliminary contentions were served, and should do so reasonably upon identifying any such material. Any amendment to add patent claims requires leave of court so that the Court can address any scheduling issues.

		summary, annual sales information for the accused product(s) for the prior two years, unless the parties agree to some other timeframe.
Sept. 18, 2020	Sept. 25, 2020	Parties exchange claim terms for construction.
Oct. 2, 2020	Oct. 9, 2020	Parties exchange proposed claim constructions.
Oct. 9, 2020	Oct. 16, 2020	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall also provide a summary of the witness's expected testimony including the opinions to be expressed and a general description of the basis and reasons therefore. A failure to summarize the potential expert testimony in a good faith, informative fashion may result in the exclusion of the proffered testimony. With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
Oct. 16, 2020	Oct. 23, 2020	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
Oct. 23, 2020	Oct. 30, 2020	Parties file Opening claim construction briefs, including any arguments that any claim terms are indefinite.
<b>Parties to file by 5:00 p.m. CT</b>		
Nov. 13, 2020	Nov. 20, 2020	Parties file Responsive claim construction briefs.
<b>Parties to file by 5:00 p.m. CT</b>		
Nov. 27, 2020	Dec. 11, 2020	Parties file Reply claim construction briefs.
<b>Parties to file by 5:00 p.m. CT</b>		
Dec. 4, 2020	Dec. 18, 2020	Parties submit Joint Claim Construction Statement. In addition to filing, the parties shall jointly submit, via USB drive, cloud-storage, or email to the law clerk pdf versions of all as-filed briefing and exhibits. Absent agreement of the parties, the Plaintiff shall be responsible for the timely submission of this and other Joint filings.
Jan. 1, 2021	Jan. 14, 2021	<i>Markman</i> Hearing at 9:00 a.m.
Jan. 8, 2021	Jan. 21, 2021	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
Feb. 12, 2021	Feb. 25, 2021	Deadline to add parties.
Feb. 26, 2021	Mar. 11, 2021	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for

		any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.
Mar. 26, 2021	April 8, 2021	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or claims.
July 30, 2021	June 10, 2021	Close of Fact Discovery.
Aug. 6, 2021	June 17, 2021	Opening Expert Reports.
Sept. 3, 2021	July 15, 2021	Rebuttal Expert Reports.
Sept. 24, 2021	July 29, 2021	Close of Expert Discovery.
Oct. 1, 2021	Aug. 5, 2021	Deadline to meet and confer to discuss narrowing the number of claims asserted and prior art references at issue. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.
Oct. 8, 2021	Aug. 12, 2021	Dispositive motion deadline and Daubert motion deadline.
Oct. 22, 2021	Aug. 26, 2021	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
Nov. 5, 2021	Sept. 9, 2021	Serve objections to pretrial disclosures/rebuttal disclosures.
Nov. 12, 2021	Sept. 16, 2021	Serve objections to rebuttal disclosures and <b>File Motions <i>in limine</i></b> .
Nov. 19, 2021	Sept. 23, 2021	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .
Nov. 26, 2021	Sept. 30, 2021	Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
Dec. 7, 2021	Oct. 7, 2021	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
Dec. 10, 2021	Oct. 11, 2021	Final Pretrial Conference.
Dec. 31, 2021	Oct. 18, 2021	Jury Selection/Trial.  This date was set by the clerk in email correspondence dated July 15, 2020. To the extent the parties want to change this date, it will be raised at the <i>Markman</i> hearing.

SIGNED this 1st day of August, 2020

  
Judge Alan D Albright  
United States District Judge